



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION II

290 BROADWAY

NEW YORK, NEW YORK 10007-1866

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

July 21, 2009

Richard Hahn, Senior Counsel
Poly One Corporation
33587 Walker Road
Avon Lake, OH 44012

Re: Dayco Corporation/L.E. Carpenter Superfund Site, Morris County, New Jersey

Dear Mr. Hahn:

Enclosed please find an Administrative Order, Docket No. 02-2009-2027 ("Order"), issued by the United States Environmental Protection Agency ("EPA") to the L.E. Carpenter Company ("Respondent") for the Dayco Corporation/L.E. Carpenter Superfund Site ("Site"), located in Morris County, New Jersey. The Order is issued pursuant to Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended ("CERCLA"), 42 U.S.C. § 9606(a), and directs Respondent to complete the remedial design of and implement the remedy described in the Record of Decision for the Site, dated April 18, 1994, as modified by the Explanation of Significant Differences ("ESD") issued by EPA on September 27, 2007. The issuance of this Order rescinds EPA's July 30, 2008 letter to L.E. Carpenter which had commenced discussions related to an Administrative Order on Consent.

You should note that the Order will become effective five (5) days after receipt by Respondent, unless a conference is timely requested, in which case, the Order shall become effective three (3) days following the date the conference is held¹.

Also note that Respondent must notify EPA in writing of its intent to comply with the Order no later than seven (7) days after the effective date of the Order².

¹See, Section XXVII. (Effective Date and Computation of Time) of the Order, and Section XXVIII. (Opportunity to Confer) of the Order.

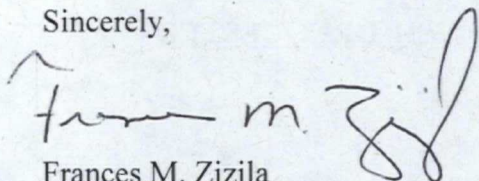
²See, Section VII. (Notice of Intent to Comply) of the Order.

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Should you wish to request a conference, or should you have any questions concerning this matter, you may contact me at (212) 637-3135.

Sincerely,

A handwritten signature in dark ink, appearing to read "Frances M. Zizila". The signature is fluid and cursive, with a large, stylized "Z" at the end.

Frances M. Zizila
Assistant Regional Counsel
Office of Regional Counsel

Enclosures

cc: Patricia Simmons Pierre, USEPA Remedial Project Manager
Glenn Savary, NJDEP

I. INTRODUCTION

1. This Administrative Order (hereafter, "Order") directs L.E. Carpenter (hereafter, "Respondent") to perform work in accordance with this Order and all attachments that is necessary to complete the remedial design of and implement the remedy described in the Record of Decision for the Dayco Corporation/L.E. Carpenter Superfund Site located in the Borough of Wharton, Morris County, New Jersey. This Order is issued to Respondent by the United States Environmental Protection Agency ("EPA") under the authority vested in the President of the United States by Section 106(a) of the Comprehensive Environmental Response, Compensation, and Liability Act, as amended, ("CERCLA"), 42 U.S.C. §§ 9606(a). This authority was delegated to the Administrator of EPA on January 23, 1987, by Executive Order 12580, 52 Fed. Reg. 2926 (1987), and further delegated to the Regional Administrators on September 13, 1987, by EPA Delegation No. 14-14-B. This authority was further redelegated on November 23, 2004 by the Regional Administrator of EPA Region 2 to the Director of the Emergency and Remedial Response Division by EPA Region 2 Delegation R-1200.

II. FINDINGS OF FACT

2. The Site is located at 170 North Main Street, Borough of Wharton, Morris County, New Jersey. The Site occupies approximately 14.6 acres, and is located northwest of the intersection of the Rockaway River and North Main Street.
3. The Site includes buildings, warehouses, and remediated disposal areas that were associated with a former vinyl wall covering manufacturing facility.
4. L.E. Carpenter manufactured vinyl wall coverings at the Site from approximately 1943 to 1987. L.E. Carpenter currently is an inactive subsidiary of Poly One Corporation.
5. The manufacturing process involved the generation of various solid and liquid waste streams, some of which were disposed of in unlined, on-site lagoons.
6. The New Jersey Department of Environmental Protection ("NJDEP") conducted soil and groundwater sampling in 1980 and 1981. Sampling results indicated the presence of volatile organic compounds, base neutral compounds, metals, and PCBs. In addition, NJDEP observed immiscible chemical compounds floating on the groundwater table.
7. In 1982, L.E. Carpenter and NJDEP entered into an Administrative Consent Order ("ACO") in which L.E. Carpenter agreed to delineate and remove soil and groundwater contamination at the Site.
8. Pursuant to the 1982 ACO, L.E. Carpenter installed a groundwater monitoring system, constructed a floating product recovery system, and excavated approximately 4,000 cubic yards of sludge and contaminated soils from the former on-site disposal areas. In addition, L.E. Carpenter removed sixteen aboveground/underground storage tanks and associated contaminated soils.

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Appendix I: Record of Decision
Appendix II: Statement of Work

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IN THE MATTER OF:

[illegible]

Proceeding Under Section 106(a) of the
Comprehensive Environmental Response,
Compensation, and Liability Act of 1980,
as amended (42 U.S.C. §§ 9606(a))

ADMINISTRATIVE ORDER

9. Pursuant to Section 105 of CERCLA, 42 U.S.C. § 9605, EPA placed the Site on the National Priorities List, set forth at 40 C.F.R. Part 300, Appendix B, by publication in the *Federal Register* on July 22 1987.
10. In September 1986, NJDEP and L.E. Carpenter entered into an Amended ACO which superseded the previous ACO. Pursuant to the Amended ACO, L.E. Carpenter began a site-wide remedial investigation ("RI") to determine the nature and extent of contamination at and emanating from the Site.
11. The RI was conducted in several phases and completed in 1992. In 1993, a Feasibility Study ("FS") was conducted to identify and evaluate cleanup actions.
12. On April 18, 1994, NJDEP issued a Record of Decision ("ROD"), with EPA concurrence. The major components of the ROD are:
 - a. Installation and operation of a floating product/groundwater extraction system;
 - b. Installation and operation of a groundwater extraction and treatment system, with a portion of the treated groundwater to be recirculated within a capture zone, another portion to be discharged into a deeper aquifer in accordance with groundwater discharge criteria, and another portion to be treated via biological treatment;
 - c. Excavation and consolidation of bis (2-ethylhexyl) phthalate-contaminated soils into a soil treatment zone;
 - d. Reinfiltration of a portion of treated groundwater (with added oxygen and nutrients) into the unsaturated soil treatment zone via perforated piping to allow in-situ bioremediation of contaminated soils;
 - e. Installation of a vegetative soil cover for the area of the groundwater infiltration system;
 - f. Spot excavation and disposal of soils containing PCBs, lead and antimony, where levels exceed the soil cleanup levels in locations other than the east soils area designated as the disposal area;
 - g. Excavation of disposal area sludge/fill, which may inhibit in-situ treatment; and,
 - h. Establishment of environmental use restrictions on the property.
13. In 1995 and later in 2001, L.E. Carpenter performed a Site-wide delineation of lead-contaminated soils which revealed that lead contamination was more extensive than previously anticipated.
14. In December 1997, L.E. Carpenter replaced the floating product removal system that had been installed in 1982 with monthly mobile Enhanced Fluid Recovery (EFR)

because removal of floating product occurred at a much slower pace than originally anticipated. After several years, the new floating product removal system was still found to be slow and inefficient.

15. Based on data collected after the ROD, NJDEP, EPA and L.E. Carpenter agreed that modifications to portions of the remedy related to soils and the floating product were warranted.
16. In April 2004, L.E. Carpenter submitted a work plan to NJDEP and EPA which proposed a more aggressive remedial approach than anticipated in the ROD. The work plan included, but was not limited to, excavation and off-site disposal of a large on-site area containing floating product smear zone soils (visibly-contaminated soils associated with floating product), and a more aggressive approach for excavation of lead contaminated soil to a residential level of 400 milligrams per kilogram ("mg/kg") and to a 0.49 mg/kg residential PCB soil cleanup criteria.
17. Excavation of soil contaminated with lead and process wastes, floating product, and PCBs began in January 2005 and was completed in June 2005.
18. Approximately 46,520 tons of material was excavated and removed off-Site for disposal during this phase of the remedial action. This amount included 9,292 tons of lead-contaminated soil, 450 tons of process waste-contaminated soils, 34,052 tons of floating product smear zone-contaminated soils, and 2,727 tons of PCB-contaminated soils. This effort resulted in achieving 0.49 mg/kg of PCBs and 400 mg/kg for lead in soils, which is the New Jersey Residential Direct Contact Soil Cleanup Criteria.
19. On September 27, 2007, EPA issued an Explanation of Significant Differences ("ESD") to explain the changes made by NJDEP and EPA to the remedy selected in the April 1994 ROD. The ESD was issued pursuant to Section 117(c) of CERCLA, as amended, 42 U.S.C. Section 9617(c), and Section 300.435(c)(2)(i) of the NCP, 42 C.F.R. Section 300.435(c)(2)(i). NJDEP concurred with the ESD through correspondence dated September 26, 2007.
20. The ESD did not address any changes to the groundwater extraction and treatment systems as required by the ROD. Monitored natural attenuation ("MNA") is currently being evaluated by the L.E. Carpenter and will continue to be evaluated under this Order.
21. The ESD noted that further work needed to be performed to evaluate an area of benzene, toluene, ethylbenzene and xylene contamination near the MW-19/Hot Spot 1 Area and MW-30 portion of the Site. The MW-19/Hot Spot 1 Area and MW-30 (Source Reduction Area) will be delineated and remediated as required under this Order.

22. L.E. Carpenter has continued to demonstrate good faith in working cooperatively with EPA to address the remaining response activities at the Site. Accordingly, L.E. Carpenter is in concurrence with EPA that issuance of this Order is the most efficient manner in which to address the remaining response actions at the Site.

III. CONCLUSIONS OF LAW AND DETERMINATIONS

Based on the "Findings of Fact" set forth above, EPA has determined that:

23. The Site is a "facility" as defined in Section 101(9) of CERCLA, 42 U.S.C. § 9601(9).
24. Wastes disposed of at the Site identified in Paragraph 4-6 are "hazardous substances" as defined in Section 101(14) of CERCLA, 42 U.S.C. § 9601(14), or constitute "any pollutant or contaminant" that may present an imminent and substantial danger to public health or welfare under Section 104(a)(1) of CERCLA.
25. The presence of hazardous substances at the Site or the past, present or potential migration of hazardous substances currently located at or emanating from the Site, constitute actual and/or threatened "releases" as defined in Section 101(22) of CERCLA, 42 U.S.C. § 9601(22).
26. Respondent is a "person" as defined in Section 101(21) of CERCLA, 42 U.S.C. § 9601(21).
27. Respondent is a responsible party under Sections 104, 107 and 122 of CERCLA, 42 U.S.C. §§ 9604, 9607 and 9622.
28. Respondent owned and operated at the Site at which hazardous substances were disposed of and, therefore, may be liable under Section 107(a) of CERCLA, 42 U.S.C. § 9607(a).
29. Based on the "Findings of Fact" and "Conclusions of Law and Determinations" in this Order and the entirety of the Administrative Record, EPA has determined that the release or threatened release of hazardous substances from the Site may present a threat to public health or welfare or the environment within the meaning of Section 106(a) of CERCLA, 42 U.S.C. § 9606(a).
30. The actions required by this Order are necessary to protect the public health, welfare or the environment, are in the public interest, and are consistent with CERCLA and the NCP.

IV. NOTICE TO THE STATE

31. EPA has notified NJDEP that this Order will be issued to Respondent.

V. ORDER

32. Based on the foregoing, Respondent is hereby ordered to comply with the following provisions, including but not limited to, all attachments to this Order, all documents incorporated by reference into this Order, and all schedules and deadlines in this Order, attached to this Order, or incorporated by reference into this Order.

VI. DEFINITIONS

33. Unless otherwise expressly provided herein, terms used in this Order that are defined in CERCLA or in the regulations promulgated under CERCLA shall have the meaning assigned to them in CERCLA or in such regulations. Whenever terms listed below are used in this Order or in the appendices attached hereto and incorporated hereunder, the following definitions shall apply:

- a. "CERCLA" shall mean the Comprehensive Environmental Response, Compensation, and Liability Act of 1980, as amended, 42 U.S.C. §9601 *et seq.*
- b. "Day" shall mean a calendar day unless otherwise expressly stated. "Working day" shall mean a day consisting of hours 8 a.m. to 6 p.m., other than a Saturday, Sunday, or federal holiday. In computing any period of time under this Settlement Agreement, where the last day would fall on a Saturday, Sunday, or federal holiday, the period shall run until the close of business on the next working day.
- c. "EPA" or "Agency" shall mean the United States Environmental Protection Agency and any successor department or agency of the United States.
- d. "ESD" or "Explanation of Significant Differences" shall mean the September 27, 2007 document explaining the changes made by NJDEP and EPA to the remedy selected in the April 1994 ROD.
- e. "NJDEP" shall mean the New Jersey Department of Environmental Protection and any successor departments or agencies of the State.
- f. "National Contingency Plan" or "NCP" shall mean the National Oil and Hazardous Substances Pollution Contingency Plan, 40 C.F.R. Part 300, and all amendments thereto.

- g. "Operation and Maintenance" or "O&M" shall mean all activities required under the Operation and Maintenance Plan developed by Respondent pursuant to this Order and the Statement of Work, and approved by EPA.
- h. "Paragraph" shall mean a portion of this Order identified by an Arabic numeral or an upper case letter.
- i. "Performance Standards" shall mean the cleanup standards and other measures of achievement of the goals of the Remedial Action, set forth in the ROD and the Statement of Work.
- j. "RCRA" shall mean the Resource Conservation and Recovery Act, also known as the Solid Waste Disposal Act, as amended, 42 U.S.C. §§ 6901, *et seq.*
- k. "Record of Decision" or "ROD" shall mean the Record of Decision for the Site signed by NJDEP on April 18, 1994, as modified by the ESD issued by EPA on September 27, 2007, attached hereto as Appendices I and II.
- l. "Remedial Action" or "RA" shall mean those activities to be undertaken by Respondent to implement the remedy selected in the ROD, including any additional activities required under this Order.
- m. "Remedial Design" or "RD" shall mean those activities to be undertaken by Respondent to develop the final plans and specifications for the Remedial Action pursuant to the Remedial Design Work Plan.
- n. "Respondent" shall mean L.E. Carpenter and Company.
- o. "Section" shall mean a portion of this Order identified by a roman numeral.
- p. "Statement of Work" or "SOW" shall mean the Statement of Work set forth in Appendix II to this Order regarding the (1) development of RD/RA work plan for the MW-19/Hot Spot 1 Area and the MW-30 Area of contamination at the Site, and (2) continued evaluation of MNA as a potential alternative remedy for the groundwater contamination at the Site, and, if necessary, the submittal of a Focused Feasibility Study. The Statement of Work is incorporated into this Order and is an enforceable part of this Order.
- q. "Site" shall mean the Dayco Corporation/L.E. Carpenter Superfund Site located at 170 North Main Street, Borough of Wharton, and Morris County, New Jersey. The Site occupies approximately 14.6 acres and includes the areal extent of contamination where hazardous substances have migrated or threaten to migrate, and all suitable areas in very close proximity to the contamination necessary for implementation of the response action. The Site is depicted generally in the ROD attached as Appendix I.
- r. "State" shall mean the State of New Jersey.
- s. "United States" shall mean the United States of America.

- t. "Waste Material" shall mean (1) any "hazardous substance" under Section 101(14) of CERCLA, 42 U.S.C. § 9601(14); (2) any pollutant or contaminant under Section 101(33) of CERCLA, 42 U.S.C. § 9601(33); (3) any "solid waste" under Section 1004(27) of RCRA, 42 U.S.C. § 6903(27); and (4) any mixture containing any of the constituents noted in (1),(2) or (3), above.
- u. "Work" shall mean all activities Respondent is required to perform under this Order and Statement of Work. The objectives of the Work are set forth in Section I.A. of the SOW.

VII. NOTICE OF INTENT TO COMPLY

- 34. Respondent shall provide, not later than seven (7) days after the effective date of this Order, written notice to EPA's Remedial Project Manager ("RPM") and Assistant Regional Counsel for the Site stating whether it will comply with the terms of this Order. If Respondent does not unequivocally commit to perform the Work as provided by this Order, Respondent shall be deemed to have violated this Order and to have failed or refused to comply with this Order. Respondent's written notice shall describe, using facts that exist on or prior to the effective date of this Order, any "sufficient cause" defenses asserted by Respondent under Sections 106(b) and 107(c)(3) of CERCLA. The absence of a response by EPA to the notice required by this Paragraph shall not be deemed to be acceptance of Respondent's assertions.

VIII. PARTIES BOUND

- 35. This Order shall apply to and be binding upon Respondent and its directors, officers, employees, agents, successors and assigns. Respondent is responsible for carrying out all activities required by this Order. No change in ownership, corporate status, or other control of Respondent shall alter any of Respondent's responsibilities under this Order.
- 36. Respondent shall provide a copy of this Order to any prospective owners or successors before a controlling interest in Respondent's assets, property rights, or stock are transferred to the prospective owner or successor. Respondent shall provide a copy of this Order to each contractor, subcontractor, laboratory, or consultant retained to perform any Work under this Order, within five (5) days after the effective date of this Order or on the date such services are retained, whichever date occurs later. Respondent shall also provide a copy of this Order to each person representing Respondent with respect to the Site or the Work and shall condition all contracts and subcontracts entered into hereunder upon performance of the Work in conformity with the terms of this Order. With regard to the activities undertaken pursuant to this Order, each contractor and subcontractor shall be deemed to be related by contract to Respondent within the meaning of Section 107(b)(3) of

CERCLA, 42 U.S.C. 9607(b)(3). Notwithstanding the terms of any contract, Respondent is responsible for compliance with this Order and for ensuring that their contractors, subcontractors and agents comply with this Order, and perform any Work in accordance with this Order.

37. Within five (5) days after the effective date of this Order, Respondent shall, with respect to real property Respondent owns within the Site, record a copy of this Order in the appropriate governmental office where land ownership and transfer records are filed or recorded, and shall ensure that the recording of this Order is indexed to the title of Respondent's real property at the Site so as to provide notice to third parties of the issuance and terms of this Order. Respondent shall, within five (5) days of the making of such recording and indexing send notice to EPA thereof.
38. Not later than sixty (60) days prior to any transfer or any real property interest in any property included within the Site, Respondent shall submit a true and correct copy of the transfer document(s) to EPA, and shall identify the transferee by name, principal business address and effective date of the transfer.

IX. WORK TO BE PERFORMED

39. Respondent shall cooperate with EPA in providing information regarding the Work to the public. As requested by EPA, Respondent shall participate in the preparation of such information for distribution to the public and in public meetings which may be held or sponsored by EPA to explain activities at or relating to the Site.
40. All aspects of the Work to be performed by Respondent pursuant to this Order shall be under the direction and supervision of a qualified licensed professional engineering firm. All plans and specifications shall be prepared under the supervision of, and signed/certified by, a licensed New Jersey professional engineer. Within seven (7) days of the effective date of the Order, respondent shall identify a Supervising Contractor, Respondent shall demonstrate that the supervising contractor has a quality system that complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995), by submitting a copy of the proposed supervising contractor's Quality Management Plan ("QMP"). The QMP should be prepared in accordance with the specifications set forth in "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA. If at any time Respondent proposes to use a different supervising contractor, Respondent shall notify EPA and shall obtain approval from EPA before the new supervising contractor performs any work under this Order.
41. Within seven (7) days of the effective date of the Order, Respondent shall identify a Project Coordinator. The Project Coordinator shall be responsible for the day-to-day

management of all Work to be performed pursuant to the Order and shall be knowledgeable at all times about all matters relating to activities regarding the RD and RA.

A. Remedial Design and Remedial Action

42. Respondent shall perform the Remedial Design and Remedial Action and submit deliverables consistent with the tasks and timeframes set forth in Sections III-VIII of the SOW.
43. The Work performed by Respondent pursuant to this Order shall, at a minimum, achieve the Performance Standards specified in the Record of Decision and in Section II of the SOW.
44. Notwithstanding any action by EPA, Respondent remains fully responsible for achievement of the Performance Standards in the Record of Decision and Statement of Work. Nothing in this Order, or in EPA's approval of the Statement of Work, or in the Remedial Design or Remedial Action Work Plans, or approval of any other submission, shall be deemed to constitute a warranty or representation of any kind by EPA that full performance of the Remedial Design or Remedial Action will achieve the Performance Standards set forth in the ROD and in Section of the SOW. Respondent's compliance with such approved documents does not foreclose EPA from seeking additional work to achieve the applicable performance standards.
45. Respondent shall, prior to any off-site shipment of hazardous substances from the Site to an out-of-state waste management facility, provide written notification to the appropriate state environmental official in the receiving state and to EPA's RPM of such shipment of hazardous substances. However, the notification of shipments shall not apply to any off-Site shipments when the total volume of all shipments from the Site to the State will not exceed ten (10) cubic yards.
 - a. The notification shall be in writing, and shall include the following information, where available: (1) the name and location of the facility to which the hazardous substances are to be shipped; (2) the type and quantity of the hazardous substances to be shipped; (3) the expected schedule for the shipment of the hazardous substances; and (4) the method of transportation. Respondent(s) shall notify the receiving state of major changes in the shipment plan, such as a decision to ship the hazardous substances to another facility within the same state, or to a facility in another state.
 - b. The identity of the receiving facility and state will be determined by Respondent following the award of the contract for Remedial Action construction. Respondent shall provide all relevant information; including information under the categories noted in subparagraph 45.a above and

subparagraph 45.c below, on the off-Site shipments as soon as practicable after the award of the contract and before the hazardous substances are actually shipped.

- c. Before shipping any hazardous substances, pollutants, or contaminants from the Site to an off-site location, Respondent shall obtain EPA's certification that the proposed receiving facility is operating in compliance with the requirements of CERCLA Section 121(d)(3), 42 U.S.C. § 9621(d)(3), and 40 C.F.R. § 300.440. Respondent shall only send hazardous substances, pollutants, or contaminants from the Site to an off-site facility that complies with the requirements of the statutory provision and regulation cited in the preceding sentence.

- 46. At least fourteen (14) days prior to the completion of the soil remedy, Respondent and their contractor(s) shall be available to accompany EPA personnel and/or their representatives on a pre-final inspection in accordance with Section VI. of the SOW. Pursuant to Section VI.B of the SOW, following the pre-final inspection, EPA will either specify the necessary corrective measures to the construction phase of the soil RA, or determine that construction is complete.
- 47. Within twenty-one (21) days after Respondent concludes that all phases of the Work have been fully performed, that the Performance Standards specified in the ROD (as modified by the ESD), soil design, and this SOW have been attained, Respondent shall schedule and conduct a final inspection in accordance with Section VI.C. of the SOW.
- 48. Within forty-five (45) days of Respondent's receipt of EPA's determination that the soil remedy is complete, Respondent shall submit a draft RA Report that meets the requirements set forth in section VI.E. of the SOW. EPA's determination that the soil remedy is complete shall not limit EPA's right to perform periodic reviews pursuant to section 121(c) of CERCLA, 42 U.S.C. § 9621(c), or to take or require any action that in the judgment of EPA is appropriate at the Site, in accordance with 42 U.S.C. §§ 9604, 9606, or 9607.

B. Groundwater Monitored Natural Attenuation Evaluation and Focused Feasibility Study

- 49. Respondent shall perform the Groundwater Monitored Natural Attenuation Evaluation, and if deemed necessary by EPA, the Focused Feasibility Study and submit deliverables consistent with the tasks and timeframes set forth in Sections VII. and VIII. of the Statement of Work.

X. FAILURE TO ATTAIN PERFORMANCE STANDARDS

50. In the event that EPA determines that additional response activities are necessary to meet applicable Performance Standards, EPA may notify Respondent that additional response actions are necessary.
51. Unless otherwise stated by EPA, within thirty (30) days of receipt of notice from EPA that additional response activities are necessary to meet any applicable Performance Standards, Respondent shall submit for approval by EPA a work plan for the additional response activities. The plan shall conform to the applicable requirements of Sections IX, XVI, and XVII of this Order. Upon EPA's approval of the plan pursuant to Section XIV, Respondent shall implement the plan for additional response activities in accordance with the provisions and schedule contained therein.

XI. EPA PERIODIC REVIEW

52. Under section 121(c) of CERCLA, 42 U.S.C. 9621(c), and any applicable regulations, EPA may review the Site to assure that the Work performed pursuant to this Order adequately protects human health and the environment. Until such time as EPA certifies completion of the Work, Respondent shall conduct the requisite studies, investigations, or other response actions as determined necessary by EPA in order to permit EPA to conduct the review under section 121(c) of CERCLA. As a result of any review performed under this paragraph, Respondent may be required to perform additional work or to modify work previously performed.

XII. ADDITIONAL RESPONSE ACTIONS

53. EPA may determine that in addition to the work identified in this Order and attachments to this Order, additional response activities may be necessary to protect human health and the environment. If EPA determines that additional response activities are necessary, EPA may require Respondent to submit a work plan for additional response activities. EPA may also require Respondent to modify any plan, design, or other deliverable required by this Order, including any approved modifications.
54. Not later than thirty (30) days after receiving EPA's notice that additional response activities are required pursuant to this Section, Respondent shall submit a work plan for the response activities to EPA for review and approval. Upon approval by EPA, the work plan is incorporated into this Order as a requirement of this Order and shall be an enforceable part of this Order. Upon approval of the work plan by EPA, Respondent shall implement the work plan according to the standards, specifications, and schedule in the approved work plan. Respondent shall notify EPA of their intent to perform such additional response activities within seven (7)

days after receipt of EPA's request for additional response activities.

XIII. ENDANGERMENT AND EMERGENCY RESPONSE

55. In the event of any action or occurrence during the performance of the work which causes or threatens to cause a release of a hazardous substance or which may present an immediate threat to public health or welfare or the environment, Respondent shall immediately take all appropriate action to prevent, abate, or minimize the threat, and shall immediately notify EPA's RPM or, if the RPM is unavailable, EPA's Alternate RPM, the Chief of the Central New York Remediation Section. If neither of these persons is available, Respondent shall notify the EPA Removal Action Branch at 732-321-6656. Respondent shall take such action in consultation with EPA's RPM and in accordance with all applicable provisions of this Order, including but not limited to the Health and Safety Plan and the Contingency Plan.
56. Nothing in the preceding paragraph shall be deemed to limit any authority of the United States to take, direct, or order all appropriate action to protect human health and the environment or to prevent, abate, or minimize an actual or threatened release of hazardous substance on, at, or from the Site.

XIV. EPA REVIEW OF SUBMISSIONS

57. After review of any deliverable, plan, report or other item which is required to be submitted for review and approval pursuant to this Order, EPA may: (a) approve the submission; (b) approve the submission with modifications; (c) disapprove the submission and direct Respondent to re-submit the document after incorporating EPA's comments; or (d) disapprove the submission and assume responsibility for performing all of any part of the response action. As used in this Order, the terms "approval by EPA," "EPA approval," or a similar term means the action described in paragraph (a) or (b) of this paragraph.
58. In the event of approval or approval with modifications by EPA, Respondent shall proceed to take any action required by the plan, report, or other item, as approved or modified by EPA.
59. Upon receipt of a notice of disapproval or a request for a modification, Respondent shall, within twenty-one (21) days or such longer time as specified by EPA in its notice of disapproval or request for modification, correct the deficiencies and resubmit the plan, report, or other item for approval. Notwithstanding the notice of disapproval, or approval with modifications, Respondent shall proceed, at the direction of EPA, to take any action required by any non-deficient portion of the

submission.

60. If any submission is not approved by EPA, Respondent shall be deemed to be in violation of this Order.

XV. PROGRESS REPORTS

61. In addition to the other deliverables set forth in this Order, Respondent shall provide monthly progress reports to EPA with respect to actions and activities undertaken pursuant to this Order. The progress reports shall be submitted on or before the tenth (10th) day of each month following the effective date of this Order. Respondent's obligation to submit progress reports continues until EPA gives Respondent written notice under paragraph 97. At a minimum these progress reports shall: (1) describe the actions which have been taken to comply with this Order during the prior month; (2) include all results of sampling and tests and all other data received by Respondent and not previously submitted to EPA; (3) describe all work planned for the next twelve (12) months, with schedules relating such work to the overall project schedule for RD/RA completion; and (4) describe all problems encountered and any anticipated problems, and actual or anticipated delays, and solutions developed and implemented to address any actual or anticipated problems or delays.

XVI. QUALITY ASSURANCE, SAMPLING AND DATA ANALYSIS

62. Respondent shall use quality assurance, quality control, and chain of custody procedures for all sample collection and analysis activities in accordance with procedures outlined in approved Quality Assurance/Quality Control Project Plans and subsequent amendments or changes to those procedures upon notification by EPA to Respondent of such amendments or changes. To provide quality assurance and maintain quality control, Respondent shall:
- a. Use only laboratories which have a documented quality system which complies with ANSI/ASQC E4-1994, "Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs," (American National Standard, January 5, 1995), and "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA. EPA may consider laboratories accredited under the National Environmental Laboratory Accreditation Program (NELAP) as meeting the Quality System requirements.
 - b. Ensure that the laboratory used by Respondent for analyses, performs

according to a method or methods deemed satisfactory to EPA.

- c. Ensure that EPA personnel and EPA's authorized representatives are allowed access to the laboratory and personnel utilized by Respondent for analyses.

- 63. Respondent shall notify EPA not less than twenty-eight (28) days in advance of any sample collection activity. At the request of EPA, Respondent shall allow split or duplicate samples to be taken by EPA or its authorized representatives, of any samples collected by Respondent with regard to the Site or pursuant to the implementation of this Order. In addition, EPA shall have the right to take any additional samples that EPA deems necessary.

XVII. COMPLIANCE WITH APPLICABLE LAWS

- 64. All activities by Respondent pursuant to this Order shall be performed in accordance with the requirements of all Federal and state laws and regulations. EPA has determined that the activities contemplated by this Order are consistent with the NCP.
- 65. Except as provided in section 121(e) of CERCLA and the NCP, no permit shall be required for any portion of the Work conducted entirely on-Site. Where any portion of the Work requires a Federal or state permit or approval, Respondent(s) shall submit timely applications and take all other actions necessary to obtain and to comply with all such permits or approvals.
- 66. This Order is not, and shall not be construed to be, a permit issued pursuant to any Federal or state statute or regulation.

XVIII. REMEDIAL PROJECT MANAGER

- 67. All communications from Respondent to EPA, whether written or oral, shall be directed to EPA's RPM. Respondent shall submit to EPA and NJDEP copies of all documents, including plans, reports, and other correspondence, which are developed pursuant to this Order electronically and/or in hard copy as directed by the RPM. Tentative numbers of hard copies are identified below. Hard copies shall be sent by certified mail or overnight mail to the following addresses:

3 Copies to: Chief, Central New York Remediation Section
Emergency and Remedial Response Division
U.S. Environmental Protection Agency
290 Broadway, 20th Floor
New York, New York 10007-1866

Attn: L.E. Carpenter Superfund Site
Remedial Project Manager

1 Copy to: New Jersey Superfund Branch
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway, 17th Floor
New York, New York 10007-1866
Attn: L.E. Carpenter Superfund Site,
Site Attorney

3 Copies to: New Jersey Department of Environmental Protection
401 East State Street
Trenton, New Jersey 08625
Attn: Site Manager, L.E. Carpenter Superfund Site

68. In the event that EPA requests more than the number of copies stated above of any report or other documents required by this Order for itself or the State, Respondent shall provide the number of copies requested.
69. EPA has the unreviewable right to change its RPM. If EPA changes its RPM, EPA will inform Respondent in writing of the name, address, and telephone number of the new RPM.
70. EPA's RPM shall have the authority lawfully vested in a RPM and On-Scene Coordinator ("OSC") by the National Contingency Plan, 40 C.F.R. Part 300. EPA's RPM shall have authority, consistent with the National Contingency Plan, to halt any work required by this Order, and to take any necessary response action.
71. Respondent's Project Coordinator is identified in Paragraph 40 of this Order. Respondent's Project Coordinator shall be responsible for overseeing Respondent's implementation of this Order. If Respondent wishes to change its Project Coordinator, Respondent shall provide written notice to EPA, five (5) days prior to changing the Project Coordinator, of the name and qualifications of the new Project Coordinator. Respondent's selection of a new Project Coordinator shall be subject to EPA approval.

XIX. ACCESS TO SITE NOT OWNED BY RESPONDENT

72. If the Site, the off-Site area that is to be used for access, property where documents required to be prepared or maintained by this Order are located, or other property subject to or affected by the clean up, is owned in whole or in part by parties other than those bound by this Order, Respondent will obtain, or use its best efforts to

obtain, site access agreements from the present owners within sixty (60) days of the effective date of this Order. Such agreements shall provide access for EPA, its contractors and oversight officials, the state and its contractors, and Respondent and Respondent's authorized representatives and contractors, and such agreements shall specify that Respondent is not EPA's representative with respect to liability associated with the activities to be undertaken. Copies of such agreements shall be provided to EPA prior to Respondent's initiation of field activities. Respondent's best efforts shall include providing reasonable compensation to any property owner. If access agreements are not obtained within the time referenced above, Respondent shall immediately notify EPA of its failure to obtain access. Subject to the United States' non-reviewable discretion, EPA may use its legal authorities to obtain access for Respondent, may perform those response actions with EPA contractors at the property in question, or may terminate the Order if Respondent cannot obtain access agreements. If EPA performs those tasks or activities with contractors and does not terminate the Order, Respondent shall perform all other activities not requiring access to that property. Respondent shall integrate the results of any such tasks undertaken by EPA into its reports and deliverables.

XX. SITE ACCESS AND DATA/DOCUMENT AVAILABILITY

73. Respondent shall allow EPA and its authorized representatives and contractors to enter and freely move about all property at the Site and off-Site areas subject to or affected by the work under this Order or where documents required to be prepared or maintained by this Order are located, for the purposes of inspecting conditions, activities, the results of activities, records, operating logs, and contracts related to the Site or Respondent and its representatives or contractors pursuant to this Order; reviewing the progress of the Respondent in carrying out the terms of this Order; conducting tests as EPA or its authorized representatives or contractors deem necessary; using a camera, sound recording device or other documentary type equipment; and verifying the data submitted to EPA by Respondent. Respondent shall allow EPA and its authorized representatives to enter the Site, to inspect and copy all records, files, photographs, documents, sampling and monitoring data, and other writings related to work undertaken in carrying out this Order. Nothing herein shall be interpreted as limiting or affecting EPA's right of entry or inspection authority under federal law.
74. Respondent may assert a claim of business confidentiality covering part or all of the information submitted to EPA pursuant to the terms of this Order under 40 C.F.R. 2.203, provided such claim is not inconsistent with Section 104(e)(7) of CERCLA, 42 U.S.C. § 9604(e)(7) or other provisions of law. This claim shall be asserted in the manner described by 40 C.F.R. 2.203(b) and substantiated by Respondent at the time the claim is made. Information determined to be confidential by EPA will be given the protection specified in 40 C.F.R. Part 2. If no such claim accompanies the

information when it is submitted to EPA, it may be made available to the public by EPA or the State of New Jersey without further notice to Respondent. Respondent shall not assert confidentiality claims with respect to any data related to Site conditions, sampling, or monitoring.

75. Respondent shall maintain for the period during which this Order is in effect, an index of documents that Respondent claims contain confidential business information. The index shall contain, for each document, the date, author, addressee, and subject of the document. Upon written request from EPA, Respondent shall submit a copy of the index to EPA.

XXI. RECORD PRESERVATION

76. Respondent shall provide to EPA upon request, copies of all documents and information within their possession and/or control or that of their contractors or agents relating to activities at the Site or to the implementation of this Order, including but not limited to sampling, analysis, chain of custody records, manifests, trucking logs, receipts, reports, sample traffic routing, correspondence, or other documents or information related to the Work. Respondent shall also make available to EPA for purposes of investigation, information gathering, or testimony, its employees, agents, or representatives with knowledge of relevant facts concerning the performance of the Work.
77. Until ten (10) years after EPA provides notice pursuant to Paragraph 81 of this Order, Respondent shall preserve and retain all records and documents in its possession or control, including the documents in the possession or control of their contractors and agents on and after the effective date of this Order that relate in any manner to the Site. At the conclusion of this document retention period, Respondent shall notify the United States at least ninety (90) calendar days prior to the destruction of any such records or documents, and upon request by the United States, Respondent shall deliver any such records or documents to EPA.
78. Within ninety (90) days after the effective date of this Order, Respondent shall submit a written certification to EPA's RPM and Site Attorney that it has not altered, mutilated, discarded, destroyed or otherwise disposed of any records, documents or other information relating to its potential liability with regard to the Site since notification of potential liability by the United States or the State or the filing of suit against it regarding the Site. Respondent shall not dispose of any such documents without prior approval by EPA. Respondent shall, upon EPA's request and at no cost to EPA, deliver the documents or copies of the documents to EPA.

XXII. DELAY IN PERFORMANCE

79. Any delay in performance of this Order that, in EPA's judgment, is not properly justified by Respondent under the terms of this Section shall be considered a violation of this Order. Any delay in performance of this Order shall not affect Respondent's obligations to fully perform all obligations under the terms and conditions of this Order.
80. Respondent shall notify EPA of any delay or anticipated delay in performing any requirement of this Order. Such notification shall be made by telephone to EPA's RPM within forty-eight (48) hours after Respondent first knew or should have known that a delay might occur. Respondent shall adopt all reasonable measures to avoid or minimize any such delay. Within five (5) business days after notifying EPA by telephone, Respondent shall provide written notification fully describing the nature of the delay, any justification for delay, any reason why Respondent should not be held strictly accountable for failing to comply with any relevant requirements of this Order, the measures planned and taken to minimize the delay, and a schedule for implementing the measures that will be taken to mitigate the effect of the delay. Increased costs or expenses associated with implementation of the activities called for in this Order is not a justification for any delay in performance.

XXIII. ASSURANCE OF ABILITY TO COMPLETE WORK

81. Respondent shall demonstrate its ability to complete the Work required by this Order and to pay all claims that arise from the performance of the Work by obtaining and presenting to EPA within thirty (30) days after the effective date of this Order, one of the following: (1) a performance bond; (2) a letter of credit; (3) a guarantee by a third party; or (4) internal financial information to allow EPA to determine that Respondent has sufficient assets available to perform the Work. Respondent shall demonstrate financial assurance in an amount of no less than \$1 million dollars for the Work. If Respondent seeks to demonstrate ability to complete the remedial action by means of internal financial information, or by guarantee of a third party, they shall comply with the requirements of 40 C.F.R. Part 264.143(f) and re-submit such information annually, on the anniversary of the effective date of this Order. If EPA determines that such financial information is no longer adequate, Respondent shall, within thirty (30) days after receipt of EPA's notice of determination, obtain and present to EPA for approval one of the other three forms of financial assurance listed above.
82. At least seven (7) days prior to commencing any work at the Site pursuant to this Order, Respondent shall submit to EPA a certification that Respondent or its contractors and subcontractors have adequate insurance coverage or have indemnification for liabilities for injuries or damages to persons or property which may result from the activities to be conducted by or on behalf of Respondent

pursuant to this Order. Respondent shall ensure that such insurance or indemnification is maintained for the duration of the Work required by this Order.

XXIV. UNITED STATES NOT LIABLE

83. The United States and EPA, by issuance of this Order, or by issuance of any approvals pursuant to this Order, assume no liability for any injuries or damages to persons or property resulting from acts or omissions by Respondent, or its directors, officers, employees, agents, representatives, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order, or Respondent's failure to perform properly or complete the requirements of this Order. Neither the United States nor EPA may be deemed to be a party to any contract entered into by Respondent or its directors, officers, employees, agents, successors, assigns, contractors, or consultants in carrying out any action or activity pursuant to this Order, and Respondent shall not represent to anyone that the United States or EPA is or may be a party to any such contract.
84. Respondent shall save and hold harmless the United States and its officials, agents, employees, contractors, subcontractors, or representatives from any and all claims or causes of action or other costs incurred by the United States including but not limited to attorney fees and other expenses of litigation and settlement arising from or on account of acts or omissions of Respondent, its officers, directors, employees, agents, contractors, subcontractors, and any persons acting on behalf or under their control, in carrying out activities pursuant to this Order, including any claims arising from any designation of Respondent as EPA's authorized representatives under Section 104(e) of CERCLA.

XXV. ENFORCEMENT AND RESERVATIONS

85. EPA reserves the right to bring an action against Respondent under Section 107 of CERCLA, 42 U.S.C. § 9607, for recovery of any response costs incurred by the United States related to this Order and/or for any other response costs which have been incurred or will be incurred by the United States relating to the Site. This reservation shall include, but not be limited to past costs, direct costs, indirect costs, the costs of oversight, the costs of compiling the cost documentation to support oversight cost demand, as well as accrued interest as provided in Section 107(a) of CERCLA.
86. Notwithstanding any other provision of this Order, at any time during the response action, EPA may perform its own studies, complete the response action (or any portion of the response action) as provided in CERCLA and the NCP, and seek

reimbursement from Respondent for its costs, or seek any other appropriate relief.

87. Nothing in this Order shall preclude EPA from taking any additional enforcement actions, including modification of this Order or issuance of additional Orders, and/or additional remedial or removal actions as EPA may deem necessary, or from requiring Respondent in the future to perform additional activities pursuant to CERCLA, 42 U.S.C. § 9606(a), *et seq.*, or any other applicable law. Respondent shall be liable under CERCLA Section 107(a), 42 U.S.C. § 9607(a), for the costs of any such additional actions.
88. Notwithstanding any provision of this Order, the United States hereby retains all of its information gathering, inspection and enforcement authorities and rights under CERCLA, RCRA and any other applicable statutes or regulations.
89. Respondent shall be subject to civil penalties under Section 106(b) of CERCLA, 42 U.S.C. § 9606(b), in the event that Respondent willfully violates, or fails or refuses to comply with this Order without sufficient cause. Such civil penalties shall be in an amount not greater than \$37,500 per day, subject to possible further adjustments of this penalty maximum consistent with the Debt Collection and Improvement Act of 1996, Pub. L. No. 104-134, 110 Stat. 1321 (1996), and the regulations promulgated there under, including the Civil Monetary Penalty Inflation Adjustment Rule, 40 C.F.R. Part 19, and all amendments thereto. In addition, failure to properly carry out response actions under this Order, or any portion hereof, without sufficient cause, may result in liability under Section 107(c) (3) of CERCLA, 42 U.S.C. § 9607(c) (3), for punitive damages in an amount at least equal to, and not more than three times the amount of any costs incurred by EPA as a result of such failure to take proper action.
90. Nothing in this Order shall constitute or be construed as a release from any claim, cause of action or demand in law or equity against any person for any liability it may have arising out of or relating in any way to the Site.
91. If a court issues an order that invalidates any provision of this Order or finds that Respondent has sufficient cause not to comply with one or more provisions of this Order, Respondent shall remain bound to comply with all provisions of this Order not invalidated by the court's order.

XXVI. ADMINISTRATIVE RECORD

92. Upon request by EPA, Respondent shall submit to EPA all documents related to the implementation of the Work for possible inclusion in the administrative record file.

XXVII. EFFECTIVE DATE AND COMPUTATION OF TIME

93. This Order shall be effective five (5) days after receipt by Respondent, unless a conference is timely requested pursuant to Paragraph 94, below. If such conference is timely requested, this Order shall become effective three (3) days following the date the conference is held, unless the effective date is modified by EPA. All times for performance of ordered activities shall be calculated from this effective date.

XXVIII. OPPORTUNITY TO CONFER

94. Respondent may, within five (5) days of the date that this Order is received by Respondent, request a conference with EPA to discuss this Order. If requested, the conference shall occur within seven (7) days of Respondent's request for a conference.
95. The purpose and scope of the conference shall be limited to issues involving the implementation of the response actions required by this Order and the extent to which Respondent intends to comply with this Order. This conference is not an evidentiary hearing, and does not constitute a proceeding to challenge this Order. It does not give Respondent a right to seek review of this Order, or to seek resolution of potential liability, and no official stenographic record of the conference will be made. At any conference held pursuant to Respondent's request, Respondent may appear in person or by an attorney or other representative.
96. Requests for a conference must be by telephone followed by written confirmation mailed that day to:

Frances M. Zizila
Assistant Regional Counsel
Office of Regional Counsel
U.S. Environmental Protection Agency
290 Broadway, 17th Floor
New York, N.Y. 10007-1866
Telephone: (212) 637-3135
Telecopy: (212) 637-3096

XXIX. TERMINATION AND SATISFACTION

97. This Order may be terminated by EPA if Respondent demonstrates in writing and certifies to the satisfaction of EPA that all Work and activities required under this Order, including any additional work required by EPA, have been performed fully in accordance with this Order and EPA concurs in writing with the certification. Such an

approval by EPA, however, shall not relieve Respondent of any remaining obligations under the Order, including those requirements set forth in Section XX regarding record preservation, or applicable law. Respondent's written submission under this Paragraph shall include a sworn statement by a responsible corporate official of the Respondent as referenced in the SOW.

So Ordered, this 15th day of July, 2009.

By: 

Walter E. Mugdan, Director
Emergency and Remedial Response Division
U.S. Environmental Protection Agency
Region II

**STATEMENT OF WORK
REMEDIAL DESIGN AND REMEDIAL ACTION
DAYCO CORPORATION/L.E. CARPENTER & COMPANY SUPERFUND SITE
BOROUGH OF WHARTON, MORRIS COUNTY, NEW JERSEY**

I. WORK TO BE PERFORMED

- A. The objectives of the work (hereinafter "Work," as defined in Section VI of the Unilateral Administrative Order ("UAO") to which this Statement of Work ("SOW") is attached) to be conducted at the Dayco Corporation/L.E. Carpenter & Company Superfund Site ("Site") are to:
1. Excavate residual soil contamination in the MW-19/Hot Spot 1 Area and fully delineate and excavate residual soil contamination in the MW-30 Area (located within the 2005 Source Reduction Area) consistent with the remedy selected in the Record of Decision ("ROD") for the Site, signed by the New Jersey Department of Environmental Protection ("NJDEP") on April 18, 1994, as modified by the Explanation of Significant Differences ("ESD") issued by EPA on September 27, 2007, attached, hereto, as Appendices I and II to the UAO, respectively.
 2. Complete the on-going, site-wide monitored natural attenuation ("MNA") groundwater evaluation and, if appropriate, prepare a focused feasibility study ("FFS") evaluating MNA as an alternative to address groundwater contamination at the Site.
- B. Respondent shall perform the Work in accordance with the UAO, the ROD (as modified by the ESD), and this SOW, including all terms, conditions and schedules set forth herein or developed and approved hereunder.
- C. All Work performed under this SOW, and pursuant to the UAO, shall conform to EPA's Region 2 "Clean and Green Policy", March 2009, which may be found at <http://www.epa.gov/region02/superfund/green/remediation/policy.html>.
- D. All data shall be submitted in EPA's electronic data deliverables ("EDD") format. Information regarding EPA's EDD format may be found at <http://www.epa.gov/region02/superfund/medd.html>.

II. PERFORMANCE STANDARDS

The remedial design ("RD") and remedial action ("RA") shall be conducted consistent with current regulations and the performance standards, cleanup

objectives, and applicable and relevant and appropriate requirements ("ARARs") set forth in the ROD, as modified by the ESD.

III. PROJECT SUPERVISION/MANAGEMENT:
SUPERVISING CONTRACTOR AND PROJECT COORDINATOR

A. Supervising Contractor

Within five (5) days of the effective date of the UAO, Respondent shall identify a Supervising Contractor. The RA and any other technical work performed by Respondent pursuant to the UAO shall meet any and all requirements of applicable federal, state and local laws and be performed under the direction and supervision of a qualified licensed professional engineering firm. All plans and specifications shall be prepared under the supervision of, and signed/certified by, a licensed New Jersey professional engineer.

B. Project Coordinator

Within five (5) days of the effective date of the UAO, Respondent shall identify a Project Coordinator. The Project Coordinator shall have adequate technical and managerial experience, and be responsible for the overall management of all Work to be performed under this SOW and pursuant to the UAO. The Project Coordinator shall be knowledgeable at all times about all matters relating to activities regarding the RD and RA. The Project Coordinator shall be the primary contact for EPA on all matters relating to Work at the Site, and should be available for EPA to contact during all working days.

IV. REMEDIAL ACTION

A. Construction Contractor

Within fifteen (15) days of EPA's approval of the Addendum to the RD Report, Respondent shall notify EPA in writing of the name, title, and qualifications of the construction contractor(s) proposed to be used in carrying out the Work to be performed pursuant to the UAO and this SOW. With respect to any proposed construction contractor(s), Respondent shall demonstrate that the proposed construction contractor(s) has a quality system that complies with ANSI/ASQC E4-1994, Specifications and Guidelines for Quality Systems for Environmental Data Collection and Environmental Technology Programs (American National Standard, January 5, 1995), by submitting a copy of the proposed construction contractor's

QMP. The QMP should be prepared in accordance with the specifications set forth in "EPA Requirements for Quality Management Plans (QA/R-2)," (EPA/240/B-01/002, March 2001) or equivalent documentation as determined by EPA. EPA shall thereafter provide written notice of the name(s) of the contractor(s) it approves, if any. Respondent may select any approved contractor from that list and shall notify EPA of the name of the contractor selected within fifteen (15) days of EPA's designation of approved contractors. If at any time Respondent proposes to change a construction contractor, Respondent shall notify EPA and shall obtain approval from EPA as provided in this paragraph, before the new construction contractor performs any work under the UAO. If EPA disapproves of the selection of any contractor as the construction contractor, Respondent shall submit a list of contractors that would be acceptable to them to EPA within fifteen (15) days after receipt of EPA's disapproval of the contractor previously selected.

B. Remedial Action Work Plan Addendum

Within thirty (30) days of the effective date of the UAO Respondent shall submit an addendum to the NJDEP-approved *Remedial Action Work Plan for Source Reduction*, RMT, Inc., 2004 ("RA Work Plan"), to incorporate the Work to be performed pursuant to the UAO and this SOW. The addendum to the NJDEP-approved RA Work Plan shall include a schedule for the Work to be performed pursuant to the UAO and this SOW.

C. Approval of Remedial Action Work Plan Addendum

EPA will either approve the Addendum to the RA Work Plan, making it the Final Addendum to the RA Work Plan, or require its modification in accordance with the procedures set forth in Section XIV of the UAO.

D. Performance of Remedial Action

1. Within one hundred twenty (120) days of EPA's written approval of the Addendum to the RA Work Plan, Respondent shall perform the RA in accordance with the Final Addendum to the RA Work Plan and the RA schedule therein.
2. During the performance of the RA, Respondent may identify and request EPA approval for field changes to the Final Addendum to the RA Work Plan, and/or RA schedule, as necessary, to complete the work. EPA will approve, disapprove, or require modification of any requests for field changes in accordance with the procedures set forth in Section XV of the UAO.

V. PRE-FINAL AND FINAL INSPECTIONS, SOIL REMEDIAL ACTION REPORT, NOTICE OF CONSTRUCTION COMPLETION

A. Pre-Final Inspection

At least fourteen (14) days prior to the completion of the soil remedy, Respondent and their contractor(s) shall be available to accompany EPA personnel and/or their representatives on a pre-final inspection. The pre-final inspection shall consist of a walkover of the Site to determine the completeness of the construction and its consistency with the ROD (as modified by the ESD), soil design, this SOW, the UAO, and applicable federal and state laws, rules, and regulations. If any items have not been completed, Respondent will develop a punch list which details the outstanding items still requiring completion or correction, including an implementation schedule, before acceptance of work. At least seven (7) days prior to the pre-final inspection, Respondent shall provide documentation that the Performance Standards related to the soil remedy have been met or will be met at the completion of construction.

A. Corrective Measures

Following the pre-final inspection, EPA will either specify the necessary corrective measures to the construction phase of the soil RA, or determine that construction is complete. If EPA determines that construction is complete, it will so advise Respondent in writing. If EPA requires corrective measures, Respondent shall undertake the corrective measures according to a schedule approved by EPA. Within fourteen (14) days after completion of the construction of the corrective measures, Respondent and their contractor(s) shall be available to accompany EPA personnel or their representatives on an inspection as provided for in the preceding paragraph. Said inspection will be followed by further directions and/or notifications by EPA as provided in the preceding paragraph. Said inspection will be followed by further directions and/or notifications by EPA as provided above in this paragraph.

C. Final Inspection

Within twenty-one (21) days of the date that Respondent concludes that they have met the Performance Standards specified in the ROD (as modified by the ESD), soil design, and this SOW, and all of the items on the punch list have been completed, Respondent shall schedule and conduct a final inspection to be attended by Respondent, EPA, NJDEP, and/or their respective representatives. The final inspection will consist of a walk-through of the project to determine the completeness of the RA and its consistency

with the ROD (as modified by the ESD), soil design, this SOW, and the UAO. All items indicated as requiring correction on the punch list should be reinspected, and all tests that were originally unsatisfactory shall be conducted again. A final punch list shall be developed for any outstanding items still requiring correction. EPA may direct Respondent to correct any deficiencies identified during the inspection. Respondent shall implement the tasks necessary to correct any deficiencies in accordance with the specifications and schedules established by EPA. .

D. Inspection and Corrective Action Reports

Inspection and corrective action reports, if any, shall be submitted within fourteen (14) days of completion of field inspection/corrective action implementation.

E. Remedial Action Report

Within forty-five (45) days of Respondent's receipt of EPA's determination that the soil remedy is complete as set forth in Subsection B. above, Respondent shall submit a draft Addendum to the NJDEP-Approved *Remedial Action Report for Source Reduction*, RMT, Inc. 2005, ("RA Report"). The draft Addendum to the RA Report shall conform to the RA Report guidance incorporated in EPA's "Close Out Procedures for National Priorities List Sites" (EPA 540-R-98-016, January 2000) and include, at a minimum, the following sections:

1. Introduction

- a. Include a brief description of the location, size, environmental setting, and operational history of the Site.
- b. Describe the operations and waste management practices that contributed to contamination of the Site.
- c. Describe the regulatory and enforcement history of the Site.
- d. Describe the major findings and results of site investigation activities.
- e. Describe prior removal and remedial activities at the Site.

2. Background

- a. Summarize the requirements specified in the ROD (as modified by the ESD). Include information on the soil cleanup objectives and other parameters applicable to the design, construction, operation, and performance of the RA.
- b. Provide additional information regarding the basis for determining the cleanup objectives, including planned future land use.
- c. Summarize the RD, including any significant regulatory or technical considerations or events occurring during the preparation of the RD.
- d. Identify and briefly discuss the ESD.

3. Construction Activities

Provide a step-by-step summary description of the activities undertaken to construct and implement the RA (e.g., mobilization and Site preparatory work; earthwork, quantity of material excavated, cleanup levels achieved, materials and/or equipment used, post-excavation activities, including source(s) of any clean fill, the types of fill material used, the final grading and contouring of each area excavated, all other Site restoration activities, all remedial construction equipment decontamination, dismantlement, and removal, collection and treatment system/unit installation/assembly, operation of the treatment/immobilization technology; associated Site work, such as fencing and water collection and control; and sampling activities).

Provide a section to include photographs that record the progress of remedial construction including, at a minimum, the important features of the Site prior to the commencement of the work, remedial construction activities for the various tasks, and the appearance of the Site after the remedial construction has been completed.

4. Chronology of Events

- a. Provide a tabular summary that lists the major events for the RA and associated dates of those events, starting with ROD signature.

- b. Include significant milestones and dates, such as, RD submittal and approval; the ESD; pre-construction work and permitting; mobilization and construction for the remedy; monitoring and sampling events; final sampling and confirmation-of-performance results; required inspections; and demobilization.

5. Performance Standards and Construction Quality Control

- a. Describe the overall performance of the construction in terms of comparison to Performance Standards.
- b. Provide an explanation of the approved construction quality assurance and construction quality control requirements or cite the appropriate reference for this material. Explain any substantial problems or deviations.
- c. Provide an assessment of the performance data quality, including the overall quality of the analytical data, with a brief discussion of QA/QC procedures followed, use of a QAPP, comparison of analytical data with data quality objectives.

6. Final Inspection and Certifications

- a. Report the results of the various RA contract inspections, and identify noted deficiencies.
- b. Briefly describe adherence to health and safety requirements while implementing the RA. Explain any substantial problems or deviations.
- c. Summarize details of the institutional controls (e.g., the type of institutional control, who will maintain the control, who will enforce the control).
- d. Describe results of pre-certification inspection. This section shall include a certification statement, signed by a responsible corporate official of one or more of Respondent or by Respondent Project Coordinator, which states the following: "To the best of my knowledge, after thorough investigation, I certify that the information contained in or accompanying this submission is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

7. As-Built Drawings

Submit to EPA the as-built engineering drawings which depict the soil RA as implemented pursuant to the UAO. Remedy implementation modifications if any to the approved plans and specifications of the design shall be reported and shown on the as-built drawings. The reasons for all such modifications shall be described in detail.

The as-built drawings shall be signed and stamped by a professional engineer licensed to practice in the State of New Jersey, and shall include a certification that the construction of the soil RA has been completed in conformance with the ROD, as modified by the ESD, soil design, and the UAO.

8. Summary of RA Costs

- a. Provide the actual final costs for the RA. If actual costs are not available, provide estimated costs.
- b. Refer the reader to the Appendix for a detailed breakdown of RA costs.

9. Contact Information

Provide contact information (names, addresses, phone numbers, and contract/reference data) for the major design and remediation contractors, as applicable.

10. Appendices: Cost and Performance Summary

- a. The specific parameters for documenting cost and performance information are presented in the *Guide to Documenting and Managing Cost and Performance Information for Remediation Projects*, EPA 542-B-98-007.
- b. Identify the matrix characteristics and site conditions that most affected the cost and performance, the corresponding values measured for each characteristic or condition, and the procedures used for measuring those characteristics or conditions.
- c. Identify the operating parameters specified by the remediation contractor that most affected the cost and performance, the

corresponding values measured for each parameter, and the procedures used for measuring those parameters.

- d. Provide a detailed breakout of the actual RA capital costs.
- e. Provide supplemental information in appendices to the RA Report. These could include a map of the Site, supplemental performance information, and a list of references.

F. Follow-Up Corrective Measures

If, after completion of the inspection for the soil RA (or follow-up inspection, if required) and receipt and review of the draft or final RA Report for the soil, EPA determines that the soil RA or any portion thereof has not been completed in accordance with the UAO or that the performance standards/cleanup objectives have not been achieved, EPA will require modifications, and/or corrective measures to fully and properly implement the RA(s), in accordance with Subsection B or C, above. EPA will notify Respondent in writing of the activities and/or corrective measures that must be undertaken by Respondent pursuant to the UAO to fully and properly implement the soil RA and achieve the performance standards/cleanup objectives. EPA will set forth in the notice a schedule for performance of such activities or require Respondent to submit a schedule to EPA for approval.

G. Approval of Remedial Action Report

If EPA concludes, based on the final RA Report for the soil RA that the soil RA has been performed in accordance with the UAO and that the performance standards and cleanup objectives have been achieved, EPA will so certify in writing to Respondent.

VI. GROUNDWATER MONITORED NATURAL ATTENUATION EVALUATION

A. Monitored Natural Attenuation Evaluation

Respondent shall continue to implement the NJDEP-approved *Workplan for Supplemental Investigation of Natural Attenuation of Dissolved Constituents in Groundwater, RMT, 2001* ("MNA Plan") and associated amendments, to complete the ongoing, site-wide MNA groundwater evaluation. The MNA Plan shall be updated, as necessary, to reflect the work performed under this SOW.

B. Monitored Natural Attenuation Report

Within twenty-one (21) calendar days of receipt of the sample results from the final sampling event called for in the MNA Plan, Respondent shall submit to EPA a Site-Wide Groundwater Monitored Natural Attenuation Report, summarizing the results of the effort and its findings.

VII. FOCUSED FEASIBILITY STUDY

If, based on the Site-Wide Groundwater Monitored Natural Attenuation Report, EPA concludes that MNA is a viable alternative to address contaminated groundwater at the Site, EPA will so advise Respondent in writing and will direct Respondent to prepare an FFS to evaluate MNA versus the groundwater remedy selected in the ROD and a schedule for the performance of said Work. A schedule for the preparation of the FFS shall be submitted to EPA for approval within ten (10) days of EPA's correspondence directing Respondent to prepare an FFS. Upon EPA's approval of the aforementioned schedule or approved modified schedule should EPA request changes to the schedule, Respondent shall prepare the FFS in accordance with the schedule. The FFS shall include the following:

A. Detailed Analysis of Alternatives

Respondents shall conduct a detailed analysis of alternatives which will consist of an analysis of each option against a set of nine evaluation criteria and a comparative analysis of all options using the same evaluation criteria as a basis for comparison.

B. Apply Evaluation Criteria and Document Analysis

Respondent shall apply seven of the nine evaluation criteria to the assembled remedial alternatives to ensure that the selected remedial alternative will be protective of human health and the environment; will be in compliance with, or include a waiver of, ARARS; will be cost-effective; will utilize permanent solutions and alternative treatment technologies, or resource recovery technologies, to the maximum extent practicable; and will address the statutory preference for treatment as a principal element. The evaluation criteria include: (1) overall protection of human health and the environment; (2) compliance with ARARs; (3) long-term effectiveness and permanence; (4) reduction of toxicity, mobility, or volume; (5) short-term effectiveness; (6) implementability; and (7) cost. Criteria 8, state acceptance, and Criteria 9, community acceptance, will be assessed by EPA. For each alternative, Respondent should provide: (1) a description of the alternative that outlines the waste management strategy involved and

identifies the key ARARs associated with each alternative, and (2) a discussion of the individual criterion assessment.

B. Compare Alternatives Against Each Other and Document the Comparison of Alternatives

Respondent shall perform a comparative analysis between the remedial alternatives. That is, each alternative will be compared against the others using the evaluation criteria as a basis of comparison. Identification and selection of the preferred alternative are reserved by EPA.

C. Focused Feasibility Study Report

Respondent shall prepare an FFS report consisting of a detailed analysis of alternatives and a cost-effectiveness analysis, in accordance with the NCP, as well as the most recent guidance. Within sixty (60) days of receipt of EPA's written directive to prepare an FFS as provided in Subparagraph A., above, Respondent shall submit to EPA a draft FFS report. Respondent shall refer to the RI/FS Guidance and the SOW for report content and format. At EPA's discretion, within thirty (30) days after submitting the draft FFS Report, Respondent shall meet with EPA to summarize and discuss the findings of the draft FFS Report and EPA's preliminary comments and concerns associated with the draft FFS Report. If EPA disapproves of or requires revisions to the draft FFS Report, in whole or in part, Respondent shall amend and submit to EPA a revised draft FFS Report which is responsive to the directions in EPA's comments, within thirty (30) days after receiving EPA's written comments.

1. The FFS Report shall contain the following:
 - a. Summary of Feasibility Study objectives
 - b. Summary of remedial objectives
 - c. Discussion of general response actions
 - d. Identification and screening of remedial technologies
 - e. Remedial alternatives description
 - f. Detailed analysis of remedial alternatives
 - g. Summary and conclusions

2. Respondent's technical feasibility considerations shall include the careful study of any problems that may prevent a remedial alternative from mitigating site problems. Specific items to be addressed are reliability (operation over time), safety, operation and maintenance, ease with which the alternative can be implemented, and time needed for implementation.

REFERENCES FOR CITATION

The following list, although not comprehensive, comprises many of the regulations and guidance documents that apply to the FFS process:

The National Hazardous Substance and Oil Pollution Contingency Plan, 40 CFR 300 et seq.

"Guidance for Conducting Remedial Investigations and Feasibility Studies Under CERCLA," EPA, Office of Emergency and Remedial Response, October 1988, OSWER Directive No. 9355.3-01

"Interim Guidance on Potentially Responsible Party Participation in Remedial Investigation and Feasibility Studies," EPA, Office of Waste Programs Enforcement, Appendix A to OSWER Directive No. 9355.3-01.

"Guidance on Oversight of Potentially Responsible Party Remedial Investigations and Feasibility Studies," EPA, Office of Waste Programs Enforcement, OSWER Directive No. 9835.3.

"A Compendium of Superfund Field Operations Methods," Two Volumes, EPA, Office of Emergency and Remedial Response, EPA/540/P-87/001a, August 1987, OSWER Directive No. 9355.0-14.

"EPA NEIC Policies and Procedures Manual," May 1978, revised November 1984, EPA-330/9-78-001-R.

"Interim Guidance with Applicable or Relevant and Appropriate Requirements," EPA, Office of Emergency and Remedial Response, July 9, 1987, OSWER Directive No. 9234.0-05.

"CERCLA Compliance with Other Laws Manual," Two Volumes, EPA, Office of Emergency and Remedial Response, August 1988 (draft), OSWER Directive No. 9234.1-01 and -02.

"Guidance on Remedial Actions for Contaminated Ground Water at Superfund Sites," EPA, Office of Emergency and Remedial Response, (draft), OSWER Directive No. 9283.1-2.

"Draft Guidance on Superfund Decision Documents," EPA, Office of Emergency and Remedial Response, March 1988, OSWER Directive No. 9355.-02

"Interim Guidance on Administrative Records for Selection of CERCLA Response Actions," EPA, Office of Waste Programs Enforcement, March 1, 1989, OSWER Directive No. 9833.3A.

REFERENCES FOR CITATION (continued)

"Community Relations in Superfund: A Handbook," EPA, Office of Emergency and Remedial Response, June 1988, OSWER Directive No. 9230.03B.

"Community Relations During Enforcement Activities and Development of the Administrative Record," EPA, Office of Programs Enforcement, November 1988, OSWER Directive No. 9836.0-1a.

"Clean and Green Policy", EPA, Region 2, March 2009